

AMENDED IN SENATE JUNE 18, 2003
AMENDED IN ASSEMBLY APRIL 28, 2003
AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1201

**Introduced by Assembly Member Berg
(Coauthor: Assembly Member Nakanishi)**

February 21, 2003

An act to add Sections ~~14132.27 and 14132.28~~ *14132.28 and 14132.29* to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1201, as amended, Berg. Medi-Cal: subacute care services.

Existing law requires a health facility to take reasonable steps, as prescribed, before a resident is transferred due to any change in the status of the license or operation of the facility, including closure or voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, to transfer the affected resident safely and minimize possible transfer trauma.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services under the direction of the Director of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law specifies various benefits that may be provided under the Medi-Cal program, and includes subacute care services as a covered benefit, subject to utilization controls. Existing law authorizes the

department to negotiate and execute agreements with health facilities that meet certain standards to provide subacute care services.

This bill would require a health facility that has a subacute care services provider contract with the department to comply with certain patient transfer and discharge requirements. The bill would grant to a resident the right to appeal any proposed transfer or discharge, require the facility to provide notice of this right, and apply to the appeal all rights and procedures that apply to the appeal of the transfer or discharge of a nursing facility resident.

This bill would establish notice and appeal procedures that would apply if the department decides to terminate or not renew a health facility's subacute care services provider contract. The bill would require the department, after making the specified notification, to provide guidance to a health facility regarding expectations for the transfer of residents. The bill would specify facility compensation and level of care requirements that would apply prior to any transfer.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section ~~14132.27~~ 14132.28 is added to the
- 2 Welfare and Institutions Code, to read:
- 3 ~~14132.27.—~~
- 4 14132.28. (a) If the department decides to terminate or not
- 5 renew a health facility's subacute care services provider contract,
- 6 the department shall notify the health facility 30 days before the
- 7 termination or nonrenewal becomes effective.
- 8 (b) (1) Once the department has notified the health facility
- 9 pursuant to subdivision (a), the department shall provide guidance
- 10 to the health facility regarding expectations for the transfer of
- 11 residents. The guidance shall consider the need to minimize
- 12 trauma of a resident due to transfer, and shall ensure, prior to any
- 13 transfer or discharge, that the facility has complied with the
- 14 transfer and discharge requirements of Section 1336.2 of the
- 15 Health and Safety Code, subsection (a) of Section 483.12 of Title
- 16 42 of the Code of Federal Regulations, and any other state and
- 17 federal laws applicable to the transfer and discharge of residents
- 18 of a nursing facility, as defined in subdivision (k) of Section 1250
- 19 of the Health and Safety Code. The department's Medi-Cal



1 division shall coordinate with the department's Licensing and
2 Certification Division in developing the guidance for the
3 protection of residents' transfer rights.

4 (2) Prior to any transfer, the health facility shall continue to
5 provide the subacute level of care required by a resident and the
6 health facility shall continue to be paid commensurate with that
7 subacute level of care.

8 SEC. 2. Section ~~14132.28~~ 14132.29 is added to the Welfare
9 and Institutions Code, to read:

10 ~~14132.28.~~—

11 14132.29. (a) A health facility that has a subacute care
12 services provider contract with the department under this chapter
13 shall comply with the patient transfer and discharge requirements
14 of this section.

15 (b) Before residents are transferred due to any change in the
16 status of the license or operation of the facility, including the
17 termination of the subacute care services provider contract by the
18 department, the facility shall comply with the transfer and
19 discharge requirements of Section 1336.2 of the Health and Safety
20 Code, subsection (a) of Section 483.12 of Title 42 of the Code of
21 Federal Regulations, and any other state and federal laws
22 applicable to the transfer and discharge of residents of a nursing
23 facility, as defined in subdivision (k) of Section 1250 of the Health
24 and Safety Code.

25 (c) All of the rights and procedures that apply to the appeal of
26 the transfer or discharge of a nursing facility resident pursuant to
27 the sections cited in subdivision (b) shall apply to an appeal
28 pursuant to this subdivision. The facility shall ensure that each
29 resident and resident's representative is notified of this right to
30 appeal. The notification shall be in writing and shall be
31 communicated in a language and manner that is understood by the
32 resident or resident's representative.

